IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 1242 (MS) OF 2001
Old No. 39140 of 2000

Rizwan,
S/o Sri Maqbool Ahmad,
R/o Rasoolpur, P.S. Gang Nagar (Roorkee)
District – Haridwar. .....Petitioner.

Versus

1. The State of U.P. through the District Magistrate, Haridwar.
2. Commissioner, Saharanpur Division, Saharanpur.

.....Respondents.

18.04.2006

Hon'ble Rajesh Tandon, J.

Heard A.K. Sharma, Advocate for the petitioner and Standing counsel for the respondents.

By the present writ petition the petitioner has prayed for writ of certiorari quashing the impugned order dated 31.01.2000, 09.05.2000 (Annexure No. 3 and 5 to the writ petition) passed by the respondent no. 1 and 2 respectively.

Briefly stated, according to the case of the petitioner, he obtained the Gun License No. 853 in the year, 1982 and also purchased a D.B.BL. Gun bearing No. 2516/B/2. Since then he is having the Gun and has not misused the same in any criminal activity.

On 26.10.1997, the S.O. Police Station Ganga Nagar (Roorkee) submitted a report on 26.10.1997 against the petitioner before the respondent no.1 with the allegations that the petitioner misused his licensed gun on 07.10.1997 and fired at one Mr. Mohtaram with an intention to kill him as a result of which he received fire arm injuries and a criminal

case was registered against the petitioner as Case Crime No. 198/97/ U/s 147/148/307/482/506/323 I.P.C.

On the basis of the said report dt. 26.10.1997 submitted by the S.O. Gang Nahar, the District Magistrate, Haridwar issued a show case notice to the petitioner U/s 17 of he Arms Act as to shy the gun lincece of the petitioner may not be cancelled.

On 27.05.1998, the petitioner replied the show cause notice issued by the D.M. Haridwar stating therein that the report of the police is based upon wrong and incorrect facts and the police is also in collusion with the opposite party.

Petitioner has submitted that on 31.01.2000, the respondent no. 1 District Magistrate without considering the reply of the petitioner cancelled the gun licence of the petitioner.

Bering aggrieved by the order of the District Magistrate, Haridwar, the petitioner preferred an appeal with some delay before the Commissioner, Saharanpur Division, Saharanpur stating therein that the order passed by the D.M. is illegal and against the evidence on record. The Commissioner, Saharanpur Division, Saharanpur dismissed the appeal as having barred by time ad upheld the order of the D.M. Haridwar vide its order 09.05.2000 on the ground of delay in filing the appeal.

In ***N. Balakrishnan Vs. M.Krishnamurthy, 1998 S.C.F.B. and Rent Cases Pages 427,*** It has been held that law of limitation is founded in public policy on '*the maxim of interest republicae up sit finis* litium' i.e. fal the general welfare, it has been held as under:-

"*The primary function of a Court is to adjudicate the dispute between the parties and to advance substantial justice.*

In view of the above, a writ of certiorari is issued quashing the order-dated 09.05.2000 passed by the respondent no. 2.

Writ petition is allowed. The appellate Court is directed to decide the appeal within a period of two months form the date of production of the certified copy of the order.

No order as to costs.

(Rajesh Tandon, J.)

18.04.2006
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